

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CHRISTINE CUMMINGS,

Plaintiff,

v.

Case No. 6:19-cv-2010-Orl-37GJK

MNR RAMY, INC; MNR
CONVENIENCE, INC.; and MOUNA
RAMY,

Defendants.

ORDER

Plaintiff moved for sanctions, including the entry of a default judgment against Defendants, and for reasonable costs including attorney's fees, on June 6, 2020 and again a month later. (Doc. 27, 28 (collectively, "**Sanctions Motions**").) She alleged Defendants failed to comply with the Court's order to compel (Doc. 26) and refused to provide complete responses to her discovery requests. (See Docs. 27-28.) Defendants failed to respond to either motion. (See Doc. 29, pp. 2-3.) On referral, U.S. Magistrate Judge Gregory J. Kelly recommends granting the Sanctions Motions. (Doc. 29 ("**R&R**").) Judge Kelly acknowledged that default judgment is "the harshest sanction and should only be used as a last resort," but found no less sanction was appropriate because "Defendants' actions demonstrate a willful disregard for their discovery obligations and this Court's Order." (Doc. 29, pp. 3-4 (citing *Malautea v. Suzuki Motor Co.*, 987 F.3d 1536, 1542 (11th Cir. 1993).))

The parties did not object to the R&R, and the time for doing so has now passed. As such, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan 28, 2016); *see also Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). Finding none, the R&R is adopted in its entirety. So Plaintiff is entitled to a default judgment against Defendants. (See Doc. 29.) But there has been no finding as to damages, however, so the Court refers this matter back to Judge Kelly to determine appropriate relief.

Accordingly, it is **ORDERED AND ADJUDGED**:

1. U.S. Magistrate Judge Gregory J. Kelly's Report and Recommendation (Doc. 29) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Plaintiff's Motion for Sanctions (Doc. 27) is **GRANTED**.
3. Plaintiff's Second Motion for Sanctions (Doc. 28) is **GRANTED**.
4. This matter is **REFERRED** to U.S. Magistrate Judge Gregory J. Kelly for a determination of the amount of Plaintiff's damages and reasonable expenses, including attorney's fees.

DONE AND ORDERED in Chambers in Orlando, Florida, on August 24, 2020.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record